

# **EXHIBIT A**

JOSEPH W. CHARLES (SBN:003038)  
JOSEPH W. CHARLES, P.C.  
5704 West Palmdale Avenue  
Post Office Box 1737  
Glendale, Arizona 85311  
Phone: (623) 939-6546 / Fax: (623) 939-6718  
Email: [attvjcharles@joecharles.com](mailto:attvjcharles@joecharles.com)  
*Attorney for Plaintiff*



**COPY**

JUL 30 2009

MICHAEL K. JEANES, CLERK  
J. GARCIA  
DEPUTY CLERK

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

MARTHA RODRIGUEZ, a single  
woman,

Plaintiff,

vs.

CV 2009-024416

CASE NO.:

COMPLAINT

QUALITY LOAN SERVICE CORP. a  
California corporation licensed to do  
business in the State of Arizona,  
MIDFIRST BANK a nationally chartered  
bank, and their subsidiary MIDLAND  
MORTGAGE COMPANY, an  
Oklahoma Corporation licensed to do  
business in the State of Arizona, WELLS  
FARGO BANK, N.A., a national banking  
association licensed to do business in the  
State of Arizona. TRES AMIGOS  
PROPERTIES LLC, an Arizona limited  
liability company, XYZ  
CORPORATIONS 1-10, JOHN and  
JANE DOES 1-10, BLACK  
PARTNERSHIPS 1-10

Defendants.

COMES NOW, Plaintiff, MARTHA RODRIGUEZ, by and through undersigned  
counsel, and for her cause of action against Defendants states and alleges as follows:

**PARTIES**

1. Plaintiff is a resident of the State of Arizona, County of Maricopa.
2. Plaintiff has been the legal owner of certain real property whose common address  
is 4210 W. Corrine Drive, Phoenix, Arizona 85029 ("the Property").

1           3. Defendant Midland Mortgage Company ("Midland") is a subsidiary of the  
2 MidFirst Bank, an Oklahoma Corporation licensed to do business in the State of Arizona.

3           4. Defendant Midland claimed to be the first mortgage holder of the Property.

4           5. Defendant Wells Fargo Bank, N.A. ("Wells Fargo") is a national banking  
5 association licensed to do business in the State of Arizona.

6           6. Wells Fargo contracted with Plaintiff to provide mortgage financing, as set forth  
7 below.

8           7. Defendant Quality Loan Service Corporation is a California corporation qualified  
9 to do business in Arizona who served in the capacity of trustee in the trustee sale of the subject  
10 property.

11           8. Tres Amigos Properties LLC, an Arizona limited liability company purport to be  
12 purchasers of the property located at 4210 W. Corrine Dr. Phoenix, AZ 85029 by trustee's sale  
13 held on July 9<sup>th</sup>, 2009.

14           9. MidFirst Bank is a nationally chartered financial institution.

15           10. All Defendants identified as governmental entities, corporations, or other such  
16 entities were at all times mentioned herein acting by and through officers, employees, agents,  
17 and contractors, who were acting within the course and scope of their employment and authority,  
18 such that these governmental entities, corporations, or other such entities are vicariously liable  
19 for the tortuous conduct of their officers, agents, employees, and contractors. Such  
20 governmental entities, corporations, or other such entities also are directly liable for their own  
21 negligence, recklessness, and other tortuous conduct in the hiring and supervision of the officers,  
22 employees, agents, and contractors whose conduct gives rise to this action.

23  
24                           **GENERAL ALLEGATIONS**

25           11. Plaintiff has utilized the Property as her primary residence.

26           12. Plaintiff was notified by Midland that mortgage payments were in arrears and  
27 Plaintiff's loan was in default status.

28           13. Plaintiff had considerable equity in the Property.

1 14. Plaintiff contacted Wells Fargo Bank for the purpose of securing a "reverse  
2 mortgage" in which some of the funds from the reverse mortgage would be paid directly to  
3 Midland to cure the default.

4 15. Plaintiff complied with all requests of Wells Fargo to obtain the reverse mortgage  
5 to cure any default for delinquent payments owed on the Property.

6 16. Plaintiff was assured by Wells Fargo that Plaintiff qualified for the reverse  
7 mortgage and that payment would be made by Wells Fargo to Midland for any delinquent  
8 payments on the underlying note, which was secured by the Deed of Trust on the property.

9 17. Plaintiff relied upon said representations of Wells Fargo and its employees that  
10 she was qualified for the reverse mortgage and that Wells Fargo would make payment to  
11 Midland for the delinquent payments from the proceeds of the reverse mortgage.

12 18. Plaintiff received on or about July 4, 2009, Exhibit A, a Notice of Eviction.

13 **COUNT ONE**

14 **LACK OF STANDING BY MIDLAND**

15 19. Plaintiff believes that Midland was not the holder of the underlying note secured  
16 by the deed of trust and therefore did not have standing to conduct a Trustee's Sale. Therefore,  
17 David Bilfeld as purported purchaser cannot be a bona-fide purchaser under the trustee sale.  
18

19 **COUNT TWO**

20 **BREACH OF CONTRACT BY MIDLAND**

21 20. Plaintiff requests pursuant to A.R.S. §12-1831, a declaration of her rights  
22 pertaining to the Property.  
23

24 21. Plaintiff submits that upon information and belief the Notice of Trustee's Sale  
25 pursuant to A.R.S. §33-808, *et seq.*, was improper.  
26

27 **COUNT THREE**

28 **BREACH OF FIDUCIARY DUTY BY MIDLAND**

1 22. Plaintiff restates and incorporates by reference all the allegations set forth in  
2 Paragraphs 1-21 of this Complaint.

3 23. Defendant Midland owed a fiduciary duty to Plaintiff as her mortgage company.

4 24. Midland breached their fiduciary by proceeding with a Trustee's Sale when  
5 Plaintiff had notified Midland that Plaintiff had secured financing to cure any defaults.

6 25. Plaintiff has suffered emotional and financial damages as a result of said breach  
7 of fiduciary duty in an amount to be proven at trial.

8 **COUNT FOUR**

9 **BREACH OF DUTY OF GOOD FAITH**  
10 **AND FAIR DEALING BY MIDLAND**

11 26. Plaintiff restates and incorporates by reference all the allegations set forth in  
12 Paragraphs 1-25 of this Complaint.

13 27. A party to a contract has a duty to act fairly and in good faith. This duty is  
14 implied by law and need not be in writing. This duty requires that neither party do anything that  
15 prevents the other party from receiving the benefits of their agreement.

16 28. Defendant Midland has breached the duty of good faith and fair dealing, and  
17 Plaintiff is entitled to recover damages proved by the evidence to have resulted naturally and  
18 directly from the breach and to recover consequential damages.

19 **COUNT FIVE**

20 **RESPONDEAT SUPERIOR**

21 29. All allegations as to Midland are hereby reasserted against Midfirst as the  
22 principal of Midland

23 **COUNT SIX**

24 **NEGLIGENCE BY WELLS FARGO**

25 30. Plaintiff restates and incorporates by reference all the allegations set forth in  
26 Paragraphs 1-29 of this Complaint.  
27  
28

1           31. Plaintiff contracted with Wells Fargo to obtain a reverse mortgage and thereby  
2 Wells Fargo owed a duty to Plaintiff to act in good faith to secure funding for the reverse  
3 mortgage and disburse funds from said reverse mortgage to Defendant Midland to cure any  
4 defaults.

5           32. Wells Fargo acted negligently, carelessly and in bad faith in processing the  
6 reverse mortgage for Plaintiff, which specifically included making payment to Defendant  
7 Midland to cure the default.

8           33. Plaintiff has suffered emotional and financial damages as a result of the  
9 negligence of Wells Fargo in an amount to be proven at trial.

10                               **COUNT SEVEN**

11                               **PROMISSORY ESTOPPEL AGAINST WELLS FARGO**

12           34. Plaintiff restates and incorporates by reference all the allegations set forth in  
13 Paragraphs 1-33 of this Complaint.

14           35. If the court finds that there was no contract between the Plaintiff and Wells Fargo,  
15 promissory estoppel protects the Plaintiff where Wells Fargo induced reasonable, foreseeable,  
16 and detrimental reliance on Wells Fargo's promise to save her house from trustee's sale or  
17 foreclosure.

18           36. Failure to fulfill the promise caused the trustee's sale to occur, the Plaintiff to be  
19 without a home, and a significant loss of equity in the home to be proved at trial.

20                               **COUNT EIGHT**

21                               **NEGLIGENT MISREPRESENTATION**

22           37. Plaintiff restates and incorporates by reference all the allegations set forth in  
23 Paragraphs 1-36 of this Complaint.

24           38. Wells Fargo presented as a fact that their services would stop the trustee's sale.

25           39. This fact turned out to be untrue.

26           40. This fact was negligently presented to the Plaintiff.

A. As to Counts One and Two, a Judgment declaring the Trustee's Sale void, declaring that David Bilfeld is not a bona fide purchaser and that Plaintiff is the lawful owner of the Property;

B. As to Counts Three, Four, and Five, special, general and punitive damages against Defendant Midland, in such an amount as shall be determined upon the trial of this action.

C. As to Counts Six, Seven, and Eight, special, general and punitive damages against Defendant Wells Fargo, in such an amount as shall be determined upon the trial of this action.

D. As to all Counts, the attorneys fees and costs incurred by Plaintiff in this action including attorneys fees awardable under A.R.S. §12-341.01

E. For such other and further relief as the Court deems just and proper.

**DATED** this \_\_\_\_\_ Day of \_\_\_\_\_, 2009.

JOSEPH W. CHARLES, P.C.

Bly

**JOSEPH W. CHARLES**  
*Attorneys for Plaintiff*

# **EXHIBIT B**



MICHAEL K. JAMES, CLERK  
RECEIVED CCC #5  
DOCUMENT DEPOSITORY

09 AUG -5 PM 3:48

1 JOSEPH W. CHARLES (SBN:003038)  
2 JOSEPH W. CHARLES, P.C.  
3 5704 West Palmar Avenue  
4 Post Office Box 1737  
5 Glendale, Arizona 85311  
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7 Email: [attvjcharles@joecharles.com](mailto:attvjcharles@joecharles.com)  
8 Attorney for Plaintiff

ORIGINAL

FILED  
BY M. Mejia, DEP.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

CV 2009-024416

MARTHA RODRIGUEZ, a single  
woman,

CASE NO.:

SUMMONS

Plaintiff,

vs.

12 QUALITY LOAN SERVICE CORP. a  
13 California corporation licensed to do  
14 business in the State of Arizona,  
15 MIDFIRST BANK a nationally chartered  
16 bank, and their subsidiary MIDLAND  
17 MORTGAGE COMPANY, an  
18 Oklahoma Corporation licensed to do  
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23 PROPERTIES LLC, an Arizona limited  
24 liability company, XYZ  
25 CORPORATIONS 1-10, JOHN and  
26 JANE DOES 1-10, BLACK  
27 PARTNERSHIPS 1-10

Defendants.

IF YOU WANT THE ADVICE OF A  
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602-257-4434 OR ON-LINE AT  
[WWW.LAWYERFINDERS.ORG](http://WWW.LAWYERFINDERS.ORG). LRS IS  
SPONSORED BY THE MARICOPA  
COUNTY BAR ASSOCIATION

THE STATE OF ARIZONA TO: QUALITY LOAN SERVICE CORP.

YOU ARE HEREBY SUMMONED and required to appear and defend, within the time applicable, in this action in this Court. If served within Arizona, you shall appear and defend within 20 days after the service of the Summons and Complaint upon you, exclusive of the day of service. If served out of the State of Arizona whether by direct service, by registered or certified mail, or by publication you shall appear and defend within 31 days after the service of the Summons and Complaint upon you is complete, exclusive of the day of service. Where process is served upon the Arizona Director of Insurance as an insurer's attorney to receive service of legal process against it in this state, the insurer shall not be required to appear, answer or plead until expiration of 40 days after date of such service upon the Director. Service by

1 registered or certified mail without the State of Arizona is complete 30 days after the date of  
2 receipt by the party being served. Service by publication is complete 30 days after the date of  
3 first publication. Direct service is complete when made. Service upon the Arizona Motor  
4 Vehicle Superintendent is complete 30 days after filing the Affidavit of Compliance and return  
5 receipt or officer=s Return. **RCP 4, ARS Sec. 20-222, 28-502, 28-503.** Copies of the pleadings  
6 filed herein may be obtained by contacting the Clerk of the Superior Court, Maricopa County,  
7 located at 201 West Jefferson, Phoenix, Arizona.

8 **YOU ARE HEREBY NOTIFIED** that in case of your failure to appear and defend  
9 within the time applicable, judgment by default may be rendered against you for the relief  
10 demanded in the Complaint.

11 Requests for reasonable accommodation for persons with disabilities must be made to the  
12 division assigned to the case by parties at least 3 judicial days in advance of a scheduled court  
13 proceeding.

14 **YOU ARE CAUTIONED** that in order to appear and defend, you must file an Answer  
15 or proper response in writing with the Clerk of this Court, accompanied by the necessary filing  
16 fee, within the time required, and you are required to serve a copy of any Answer or response  
17 upon the Plaintiffs' attorney. **Rcp 10(D); ARS Sec. 12-311; RCP 5.**

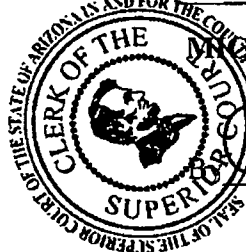
18 The name and address of Plaintiffs' attorney is:

19 JOSEPH W. CHARLES  
20 5704 W. Palmar Avenue  
21 Post Office Box 1737  
22 Glendale AZ 85311  
23 (623) 939-6546

24 JUL 30 2009

25 **MICHAEL K. JEANES, CLERK**

26 SIGNED AND SEALED this date:



**MICHAEL K. JEANES, CLERK**

Deputy Clerk

MICHAEL K. JEANES, CLERK  
RECEIVED CCC #5  
DOCUMENT DEPOSITORY

09 AUG -5 PM 3:48

HAWKINS and E-Z MESSENGER  
1209 E. Washington Street  
Phoenix, AZ 85034  
(602) 258-8081 FAX: (602) 258-8864

FILED  
BY M. Mejia, DEP.

IN THE ARIZONA SUPERIOR COURT  
STATE OF ARIZONA COUNTY OF MARICOPA

MARTHA RODRIGUEZ  
VS  
QUALITY LOAN SERVICE

CASE NO. CV2009-024416

STATE OF ARIZONA )  
MARICOPA COUNTY )

AFFIDAVIT OF SERVICE

THE AFFIANT, being sworn, states: That I am a private process server registered in MARICOPA COUNTY and an Officer of the Court. On 08/03/09 I received the SUMMONS; CERTIFICATE OF COMPULSORY ARBITRATION; COMPLAINT; REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS;

from JOSEPH W. CHARLES, P.C. and by in each instance I personally served a copy of each document listed above upon:  
QUALITY LOAN SERVICE CORP. A CALIFORNIA CORPORATION LICENSED TO DO BUSINESS IN THE STATE OF ARIZONA, BY SERVICE UPON ITS STATUTORY AGENT, C.T. CORPORATION SYSTEM on 08/03/09 at 12:45 pm at 2394 E. CAMELBACK ROAD PHOENIX, AZ 85016 MARICOPA COUNTY in the manner shown below:

by leaving true copy(ies) of the above documents with DUC LE, PROCESS SPECIALIST, STATED AUTHORIZED TO ACCEPT.

Description: ASIAN, Male, Approx. 35 yrs. of age, 5' 7" tall, Weighing 150lbs., BLACK Hair,

SERVICE OF PROCESS	\$	16.00
MILES 8	\$	19.20
SERVICE CHARGE	\$	5.00
AFFIDAVIT PREP/NOTARY	\$	10.00
TOTAL	\$	50.20

DON A. FOUTZ ACPS Affiant  
Sworn to before me the Aug 4, 2009

JoAnn Florez

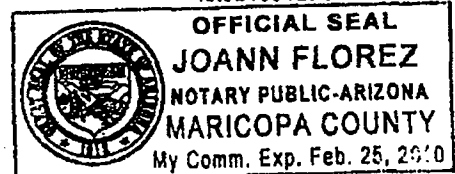
Notary

My Commission expires: 02/25/2010

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MICHAEL K. JEANES, CLERK  
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DOCUMENT DEPOSITORY

09 AUG -7 PM 1:00

FILED  
BY Y. ESCALANTE, DE.

JOSEPH W. CHARLES (SBN:003038)  
JOSEPH W. CHARLES, P.C.  
5704 West Palmar Avenue  
Post Office Box 1737  
Glendale, Arizona 85311  
Phone: (623) 939-6546 / Fax: (623) 939-6718  
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*Attorney for Plaintiff*

ORIGINAL

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IN AND FOR THE COUNTY OF MARICOPA

CV 2009-024416

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SUMMONS

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vs.

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association licensed to do business in the  
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PROPERTIES LLC, an Arizona limited  
liability company, XYZ  
CORPORATIONS 1-10, JOHN and  
JANE DOES 1-10, BLACK  
PARTNERSHIPS 1-10

Defendants.

IF YOU WANT THE ADVICE OF A  
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SPONSORED BY THE MARICOPA  
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THE STATE OF ARIZONA TO: MIDFIRST BANK

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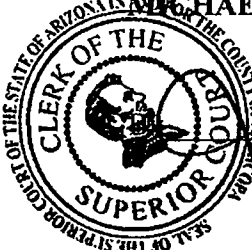
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15 or proper response in writing with the Clerk of this Court, accompanied by the necessary filing  
16 fee, within the time required, and you are required to serve a copy of any Answer or response  
17 upon the Plaintiffs' attorney. **Rcp 10(D); ARS Sec. 12-311; RCP 5.**

18 The name and address of Plaintiffs' attorney is:

19 JOSEPH W. CHARLES  
20 5704 W. Palmaire Avenue  
21 Post Office Box 1737  
22 Glendale AZ 85311  
23 (623) 939-6546

24 JUL 30 2009

25 SIGNED AND SEALED this date: \_\_\_\_\_

26 MICHAEL K. JEANES, CLERK  
27  Deputy Clerk  
28

MICHAEL K. JEANES, CLERK  
RECEIVED CCC #7  
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FILED  
BY Y. ESCALANTE, DE.

HAWKINS and E-Z MESSENGER  
1209 E. Washington Street  
Phoenix, AZ 85034  
(602) 258-8081 FAX: (602) 258-8864

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MARICOPA COUNTY )

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from JOSEPH W. CHARLES, P.C. and by in each instance I personally served a copy of each document listed above upon:

MIDFIRST BANK, A NATIONALLY CHARTERED on 08/04/09 at 9:00 am at 3030 E. CAMELBACK ROAD PHOENIX, AZ 85016 MARICOPA COUNTY in the manner shown below:

by leaving true copy(ies) of the above documents with BETH BARLES, ASSISTANT LEGAL COUNSEL, STATED AUTHORIZED TO ACCEPT.

Description: WHITE, Female, Approx. 30 yrs. of age, 5' 2" tall, Weighing 130lbs., BROWN Hair,

SERVICE OF PROCESS	\$	16.00
MILES 10	\$	24.00
SERVICE CHARGE	\$	5.00
AFFIDAVIT PREP/NOTARY	\$	10.00
TOTAL	\$	55.00

DON A. FOUTZ, ACPS Affiant  
Sworn to before me the Aug 5, 2009

JOANN FLOREZ

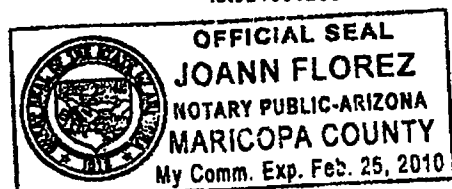
Notary

My Commission expires: 02/25/2010

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09 AUG 10 PM 3:51

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BY A. Asher, DEP.

1 **JOSEPH W. CHARLES (SBN:003038)**  
2 **JOSEPH W. CHARLES, P.C.**  
3 **5704 West Palmar Avenue**  
4 **Post Office Box 1737**  
5 **Glendale, Arizona 85311**  
6 **Phone: (623) 939-6546 / Fax: (623) 939-6718**  
7 **Email: attvjcharles@joecharles.com**  
8 **Attorney for Plaintiff**

ORIGINAL

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IN AND FOR THE COUNTY OF MARICOPA

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27 **PARTNERSHIPS 1-10**

Defendants.

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SPONSORED BY THE MARICOPA  
COUNTY BAR ASSOCIATION

23 **THE STATE OF ARIZONA TO: WELLS FARGO BANK, N.A.**

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23 (623) 939-6546

24 **SIGNED AND SEALED** this date:

JUL 30 2009



25 MICHAEL K. JEANES, CLERK

26 Deputy Clerk



MICHAEL A. JEANES, CLERK  
RECEIVED CCC #5  
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09 AUG 10 PM 3:57

FILED  
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Phoenix, AZ 85034  
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PINAL COUNTY )

AFFIDAVIT OF SERVICE

THE AFFIANT, being sworn, states: That I am a private process server registered in PINAL COUNTY and an Officer of the Court. On 08/03/09 I received the SUMMONS; CERTIFICATE OF COMPULSORY ARBITRATION; COMPLAINT; REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS;

from JOSEPH W. CHARLES, P.C. and by in each instance I personally served a copy of each document listed above upon:

WELLS FARGO BANK, N.A., A NATIONAL BANKING ASSOCIATION LICENSED TO DO BUSINESS IN THE STATE OF ARIZONA, BY SERVICE UPON CORPORATION SERVICE COMPANY on 08/05/09 at 12:05 pm at 23338 W. ROYAL PALM ROAD #J PHOENIX, AZ 85003 MARICOPA COUNTY in the manner shown below:

by leaving true copy(ies) of the above documents with ASHLEY MACULIFFE, CLERK, STATED AUTHORIZED TO ACCEPT.

Description: WHITE, Female, Approx. 35 yrs. of age, 5' 7" tall, Weighing 300lbs., BLUE Eyes, BROWN Hair,

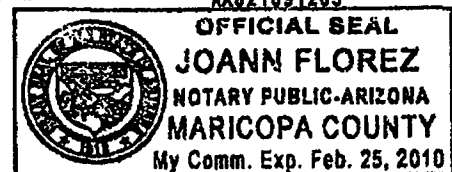
CHAD BARBER, ACPS Affiant  
Sworn to before me the Aug 7, 2009

JoAnn Florez Notary

My Commission expires: 02/25/2010

SERVICE OF PROCESS	\$	16.00
MILES 13	\$	31.20
SERVICE CHARGE	\$	5.00
AFFIDAVIT PREP/NOTARY	\$	10.00
TOTAL	\$	62.20

1691265 3088 14  
ORIGINAL



MICHAEL K. JEANES  
Clerk of the Superior Court

By KRISTY KEE, Deputy  
Date 08/25/2009 Time 02:58 PM  
Description Qty Amount  
CIVIL SEPARATE ANS 001 223.00  
TOTAL AMOUNT 223.00  
Receipt# 00011212440

Paul M. Levine, Esq. (007202)  
Matthew Silverman, Esq. (018919)  
**McCARTHY ♦ HOLTHUS ♦ LEVINE**  
3636 North Central Avenue, Suite 1050  
Phoenix, Arizona 85012  
Telephone: (602) 230-8726  
[plevine@mhlevine.com](mailto:plevine@mhlevine.com)  
*Attorneys for Defendants Midfirst/Midland*

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF MARICOPA**

MARTHA RODRIGUEZ, a single woman,  
  
Plaintiff,

vs.

QUALITY LOAN SERVICE CORP., a  
California corporation; MIDFIRST BANK,  
a nationally chartered bank and their  
subsidiary MIDLAND MORTGAGE  
COMPANY, an Oklahoma corporation;  
WELLS FARGO BANK, N.A., a national  
Banking association; TRES AMIGOS  
PROPERTIES LLC, an Arizona limited  
liability company; JOHN DOES I-X;  
JANE DOES I-X; ABC CORPORATIONS  
I-X; XYZ PARTNERSHIPS I-X,

Defendants.

Case No.: CV2009-024416

**DEFENDANTS MIDFIRST BANK  
AND MIDLAND MORTGAGE  
COMPANY'S ANSWER**

(Assigned to the Honorable Hugh Hegyi)

Defendants, Midfirst Bank ("Midfirst") and Midland Mortgage Company ("Midland"), by and  
through their counsel undersigned, for their Answer to the Plaintiff's Complaint, hereby admit, deny  
and allege as follows:

**PARTIES**

1  
2 1. Defendants deny each and every allegation of the Plaintiff's Complaint not specifically  
3 admitted herein.

4 2. Answering paragraphs 1 and 2, Defendants are without sufficient information or knowledge  
5 with which to form a belief as to the truth of the allegations contained therein and therefore deny same.

6 3. Answering paragraph 3, Defendants admit that Midland is the subsidiary of Midfirst.  
7 Defendants deny the remaining allegations of paragraph 3.

8 4. Answering paragraph 4, Defendants deny the allegations contained therein.

9 5. Answering paragraph 5, upon information and belief, Defendants admit the allegations  
10 contained therein.

11 6. Answering paragraph 6, Defendants are without sufficient information or knowledge with  
12 which to form a belief as to the truth of the allegations contained therein and therefore deny same.

13 7. Answering paragraph 7, Defendants admit the allegations contained therein.

14 8. Answering paragraph 8, Defendants are without sufficient information or knowledge with  
15 which to form a belief as to the truth of the allegations contained therein and therefore deny same.

16 9. Answering paragraph 9, Defendants allege that Midfirst is a federally chartered savings  
17 association.

18 10. Answering paragraph 10, Defendants are without sufficient information or knowledge with  
19 which to form a belief as to the truth of the allegations contained therein and therefore deny same.  
20  
21  
22  
23  
24  
25

**GENERAL ALLEGATIONS**

11. Answering paragraph 11, Defendants are without sufficient information or knowledge with which to form a belief as to the truth of the allegations contained therein and therefore deny same.

12. Answering paragraph 12, upon information and belief, Defendants admit the allegations contained therein.

13. Answering paragraphs 13, 14, 15, 16, 17 and 18, Defendants are without sufficient information or knowledge with which to form a belief as to the truth of the allegations contained therein and therefore deny same.

**COUNT ONE**  
**LACK OF STANDING BY MIDLAND**

14. Answering paragraph 19, Defendants deny the allegations contained therein.

**COUNT TWO**  
**BREACH OF CONTRACT BY MIDLAND**

15. Answering paragraph 20, Defendants are without sufficient information or knowledge with which to form a belief as to the truth of the allegations contained therein and therefore deny same.

16. Answering paragraph 21, Defendants deny the allegations contained therein.

**COUNT THREE**  
**BREACH OF FIDUCIARY DUTY BY MIDLAND**

17. Answering paragraph 22, Defendants incorporate and reallege the allegations of paragraphs 1-16 above, as if fully set forth herein.

18. Answering paragraphs 23, 24 and 25, Defendants deny the allegations contained therein.

**COUNT FOUR**  
**BREACH OF DUTY OF GOOD FAITH**  
**AND FAIR DEALING BY MIDLAND**

19. Answering paragraph 26, Defendants incorporate and reallege the allegations of paragraphs 1-18 above, as if fully set forth herein.

20. Answering paragraph 27, the allegation is a legal conclusion and does not require any response. Without prejudice to or waiver of its rights, Defendants admit the allegations contained therein.

21. Answering paragraph 28, Defendants deny the allegations contained therein.

**COUNT FIVE**  
**RESPONDEAT SUPERIOR**

22. Answering paragraph 29, Defendants deny the allegations contained therein.

**COUNT SIX**  
**NEGLIGENCE BY WELLS FARGO**

23. Answering paragraph 30, Defendants incorporate and reallege the allegations of paragraphs 1-22 above, as if fully set forth herein.

24. Answering paragraphs 31, 32 and 33, Defendants are without sufficient information or knowledge with which to form a belief as to the truth of the allegations contained therein and therefore deny same.

**COUNT SEVEN**  
**PROMISSORY ESTOPPEL AGAINST WELLS FARGO**

25. Answering paragraph 34, Defendants incorporate and reallege the allegations of paragraphs 1-24 above, as if fully set forth herein.

26. Answering paragraphs 35 and 36, Defendants are without sufficient information or knowledge with which to form a belief as to the truth of the allegations contained therein and therefore deny same.

**COUNT EIGHT**  
**NEGLIGENT MISREPRESENTATION**

27. Answering paragraph 37, Defendants incorporate and reallege the allegations of paragraphs 1-26 above, as if fully set forth herein.

28. Answering paragraphs 38, 39, 40 and 41, Defendants are without sufficient information or knowledge with which to form a belief as to the truth of the allegations contained therein and therefore deny same.

29. As and for their affirmative defenses, Defendants allege that Counts One, Two, Three, Four and Five fail to state a claim upon which relief can be granted. Defendants further allege lack of privity of contract, estoppel, failure of consideration, laches and waiver. Defendants reserve the right to allege any other affirmative defense which may be discovered and which may be relevant to this matter. In addition, Defendants affirmatively allege A.R.S. § 33-811.

30. Plaintiff's Complaint against Midfirst and Midland arise out of an alleged contract and pursuant to A.R.S. § 12-341.01, Defendants are entitled to an award of their attorney's fees, including post judgment attorney's fees.

WHEREFORE, Defendants Midfirst Bank and Midland Mortgage Company pray that all counts of the Plaintiff's Complaint be dismissed with prejudice as against these answering Defendants, for their costs incurred herein, including post judgment costs, for their attorney's fees, including post judgment attorney's fees, pursuant to A.R.S. § 12-341.01, and for such other and further relief as the Court deems just and proper.

///

///

1 DATED this 25<sup>th</sup> day of August, 2009.

2  
3 McCARTHY ♦ HOLTHUS ♦ LEVINE

4  
5 By: 

6 Paul M. Levine  
7 Matthew A. Silverman  
8 3636 North Central Avenue, Suite 1050  
9 Phoenix, Arizona 85012  
10 Attorneys for Defendants Midfirst/Midland

11 ORIGINAL of the foregoing filed this 25  
12 day of August, 2009 with the Clerk of the Court.

13 COPY of the foregoing mailed this 25 day of  
14 August, 2009 to:

15 Joseph Charles  
16 5704 W. Palmaire Avenue  
17 Glendale, AZ 85311  
18 Attorney for Plaintiff

19  
20  
21  
22  
23  
24  
25  


# **EXHIBIT C**



August 28, 2009

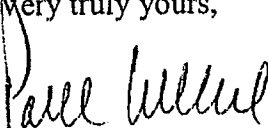
Anne W. Bishop  
Snell & Wilmer L.L.P.  
One Arizona Center  
400 E. Van Buren St.  
Phoenix, AZ 85004-2202

Re: *Rodriguez v. Quality Loan Service Corp., et al.*  
*Maricopa County Superior Court Case No. CV2009-024416*

Dear Ms. Bishop:

I am counsel for Defendants Quality Loan Service Corp., Midfirst Bank, and Midland Mortgage Company, and I have authority to act on their behalf in the litigation entitled *Martha Rodriguez v. Quality Loan Service Corp., et al.* On behalf of Quality Loan Service Corp., Midfirst Bank, and Midland Mortgage Company, I consent to removal of this action to the United States District Court.

Very truly yours,



Paul M. Levine

# **EXHIBIT D**

Gregory J. Marshall (#019886)  
Anne W. Bishop (#024666)  
SNELL & WILMER L.L.P.  
One Arizona Center  
400 E. Van Buren  
Phoenix, AZ 85004-2202  
[gmarshall@swlaw.com](mailto:gmarshall@swlaw.com)  
[abishop@swlaw.com](mailto:abishop@swlaw.com)  
Attorneys for Defendant  
Wells Fargo Bank, N.A.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

MARTHA RODRIGUEZ, a single  
woman,

Plaintiff,

v.

QUALITY LOAN SERVICE CORP. a  
California corporation licensed to do  
business in the State of Arizona,  
MIDFIRST BANK a nationally  
chartered bank, and their subsidiary  
MIDLAND MORTGAGE COMPANY,  
an Oklahoma Corporation licensed to do  
business in the State of Arizona,  
WELLS FARGO BANK, N.A., a  
national banking association licensed to  
do business in the State of Arizona,  
TRES AMIGOS PROPERTIES LLC,  
an Arizona limited liability company,  
XYZ CORPORATIONS 1-10, JOHN  
and JANE DOES 1-10, BLACK  
PARTNERSHIPS 1-10,

Defendants.

No. CV2009-024416

**DEFENDANT WELLS FARGO  
BANK, N.A.'S NOTICE OF  
REMOVAL**

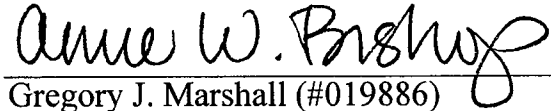
(Honorable Hugh Hegyi)

Defendant Wells Fargo Bank, N.A., gives notice of removal of this action from  
the Superior Court of Arizona, Maricopa County, to the United States District Court,  
District of Arizona. Pursuant to 28 U.S.C. § 1446(d), this Court shall proceed no further  
with this action.

DATED this 4th day of September, 2009.

SNELL & WILMER L.L.P.

By



Gregory J. Marshall (#019886)

Anne W. Bishop (#024666)

One Arizona Center

400 E. Van Buren

Phoenix, AZ 85004-2202

Attorneys for Defendant

Wells Fargo Bank, N.A.

ORIGINAL filed with the Clerk of Court  
this 4th day of September, 2009 and

COPY delivered this 4th day of September,  
2009 to:

Honorable Hugh Hegyi  
Maricopa County Superior Court  
201 W. Jefferson, CCB-6A  
Phoenix, AZ 85003

COPY mailed this 4th day of  
September, 2009 to:

Joseph W. Charles, Esq.  
Joseph W. Charles, P.C.  
5704 W. Palmar Ave.  
Glendale, AZ 85301  
[attyjcharles@joecharles.com](mailto:attyjcharles@joecharles.com)  
Attorney for Plaintiff

Paul M. Levine, Esq.  
Matthew Silverman, Esq.  
McCarthy Holthus Levine  
3636 N. Central Ave., Suite 1050  
Phoenix, AZ 85012  
[plevine@mhlevine.com](mailto:plevine@mhlevine.com)  
Attorneys for Defendants  
Midfirst Bank and Midland Mortgage Co.



10467620

Snell & Wilmer

L.L.P.

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